

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Sebastian Rainey, #240301,)	
)	
Petitioner,)	
)	
vs.)	Civil Action No.: 8:08-2463-TLW-BHH
)	
Tim Riley, Warden of Tyger River)	
Correctional Institution; and Henry)	
McMaster, Attorney General of the State)	
of South Carolina,)	
)	
Respondents.)	
)	

ORDER

Petitioner, Sebastian Rainey (“petitioner”), brought this civil action, *pro se*, pursuant to 28 U.S.C. § 2254 on July 10, 2008. (Doc. #1). This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Bruce Howe Hendricks to whom this case had previously been assigned. (Doc. #11). In the Report, the Magistrate Judge recommends that the District Court dismiss this petition without prejudice and without requiring the respondent to file a return. (Doc. #11). The petitioner filed objections to the report. (Doc. #13). In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)
(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, de novo, the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #11).

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

December 12, 2008
Florence, South Carolina